

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	3:09cr112-MHT
)	(WO)
TIOMBE HARRIS)	

OPINION AND ORDER

In 2014, Amendment 782 to the United States Sentencing Guidelines revised the guidelines applicable to the drug-trafficking offense for which this court sentenced defendant Tiombe Harris. The Sentencing Commission simultaneously promulgated Amendment 788, making Amendment 782 retroactive. This court established a Retroactivity Screening Panel to determine whether a defendant might be eligible for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2).

Harris's case was submitted for review, but the Panel was unable to reach a unanimous recommendation due to a disagreement over the applicable law--namely, whether the Eleventh Circuit's holding in United States v. Glover, 686 F.3d 1203 (11th Cir. 2012), that a

below-mandatory-minimum sentence cannot be reduced based on a retroactive amendment to the Guidelines, was abrogated by the Commission's subsequent promulgation of Amendment 780, which states that a reduction should be made without regard to the mandatory minimum when the court originally departed below it based on a substantial-assistance motion.

This court held that eligibility for a sentence reduction is governed by Amendment 780. See United States v. Morris, No. 3:07CR261-MHT, -- F. Supp. 3d --, 2015 WL 7756138 (M.D. Ala. Dec. 2, 2015). In accordance with Morris, Harris is eligible for a reduction.

Furthermore, the court finds that a reduction is warranted in Harris's case. The Panel found that there are no public safety or post-sentencing conduct issues that would preclude the defendant from being considered for a reduced sentence.

For the reasons discussed in the civil habeas opinion docketed in this case (doc. no. 85), the court concludes that the appropriate reduced sentence is 44 months on

count one and 60 months on count two, to run consecutively, for a total term of 104 months.

* * *

After conducting an independent and de novo review of the record, it is ORDERED, pursuant to 18 U.S.C. § 3582(c)(2), that the sentence of imprisonment of 135 months previously imposed on defendant Tiombe Harris, as reflected in the judgment issued on November 24, 2009, is reduced to 104 months.

DONE, this the 12th day of May, 2016.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE